



LEAGUE OF
WOMEN VOTERS®

**CGA Energy and Technology Committee
March 9, 2010 Public Hearing**

Comments by Pua Ford, Media Specialist

Support for RHB-5463 AAC Periodic Review of Video Providers

My name is Pua Ford. I am the Media Issues specialist for the League of Women Voters of Connecticut. On behalf of the League, I would like to thank you for the opportunity to comment on this bill.

The League of Women Voters of Connecticut believes that community access television channels must be adequately protected, promoted, and funded, regardless of the provider of TV/video services to Connecticut residents. Government should provide opportunities for citizen participation in decisions regarding community access, or PEG, TV.

This proposed legislation came before the committee last year, together with many other pieces directed at other issues relating to community access TV—membership on advisory councils, competition among nonprofits to provide community access, funding for town specific organizations, and maintenance of interconnection equipment between community access providers and competitive video service. Over the course of the 2009 session, we were persuaded by testimony from the Office of Consumer Counsel that performance review might address these problems. Even more persuasive was the comment from the Department of Public Utility Control that it “is severely limited in its authority to act on complaints in this field.” *(Both testimonies from 2009 are attached for your convenience.)*

The old franchise renewal process did not satisfy everyone involved in community access television, but it offered everyone an opportunity to be heard in greater depth than is possible in this public hearing process.

The League of Women Voters supports this bill as the best method that has been proposed this session to deal with issues surrounding community access television.

In 2009, opponents to the bill argued that performance review would require onerous expense (in attorneys, documentation) from the company. Although the old franchise renewal process (which occurred every 7-15 years) required an in-depth and very informative needs assessment, a biennial review would have to be lighter and much less of a burden to the companies.

Another argument against the proposal was that further regulation will interfere with competition in this area, result in lost jobs in the state, and deny choice to consumers. The industry was already deleting jobs—consolidating customer service and advertising departments—well before PA 07-253 *AAC Certified Competitive Video Service*.

For consumers, competition has provided satisfaction to some people who want to get away from the cable monopoly, moving from one package of hundreds of channels to another package of hundreds of channels. But for those who were either content with their cable service or for which competition has not been an answer, many have found their favorite and basic channels—Turner Classic Movies and PEG channels are the most well-known—pushed out of reach to digital tiers that require higher fees, either for renting digital converters or for a higher-priced package of services. Those who only wanted the most basic service find their rates still rising for fewer channels. DPUC's Final Decision in Docket 08-04-02 determined that the competitive video law freed the industry from basic service rate regulation and with it went community access television—the window on the local community—on the basic tier, in some cases

Consumer choice for television is not like consumer choice for breakfast cereal. Consumers voting with their dollars cannot simply walk further down the grocery aisle when it comes to television. Those who switch services have to make arrangements for service people to install equipment in their homes. And there is no guarantee that costs will not rise or particular channels will remain with any service as time goes on.

Attached, in case you do not have these handy

1. 2009 Testimony on HB 6604 from Office of Consumer Counsel
2. 2009 Testimony on HB 6604 from Department of Public Utility Control

Link to the DPUC docket 08-04-02 Final Decision:

<http://www.dpuc.state.ct.us/FINALDEC.NSF/0d1e102026cb64d98525644800691cfe/5dd9058e543ca26685257488006fca1b?OpenDocument>

To reiterate, the League of Women Voters supports this bill as the best method that has been proposed this session to deal with issues surrounding community access television. We believe that periodic reviews of video providers by the DPUC, with input from Office of Consumer Counsel, the Attorney General, the applicable advisory council and the public at large, are an important and appropriate protection for consumers and community access providers alike. We further believe that giving the DPUC the authority to act upon complaints is crucial to holding video providers accountable and to ensuring that the concerns of consumers and community access providers are fully and fairly addressed. We urge your support for this bill.

I thank the Committee for the opportunity to comment on these issues today on behalf of the League of Women Voters of Connecticut.



State of Connecticut

Office of Consumer Counsel

Mary J. Healey
Consumer Counsel

The Energy and Technology Committee
March 5, 2009

H.B. 6604 AAC Public Access Television Channels
Testimony of Mary J. Healey, Consumer Counsel
Presented by William L. Vallée Jr., Principal Attorney

The Office of Consumer Counsel (OCC) has carefully reviewed H.B. 6604 *AAC Public Access Television Channels*, a bill that would attempt to improve community access television in the state. Rather than promote a revamping of many provisions of Title 16 of the Connecticut General Statutes, however, the OCC supports merely passing Section 10 of the proposed bill into law which will allow for a performance review of all video providers by the DPUC on a biennial basis, with the participation of all interested parties in that review.

Unlike the other sections of this bill, Section 10 does not change the substantive legal framework for the regulation of video services or specifically the interests of the PEG community, but merely once again provides the DPUC and interested parties with periodic opportunities to verify that existing statutes and regulations are being followed by all video providers. In this way, the PEG community may be assured of a voice at the DPUC in the relationship between themselves and the video providers.

The Section 10 Biennial Review Docket requires the DPUC to conduct a performance review of all certified video providers, including the telephone and cable companies, a process that was removed from the DPUC's statutory authority by P.A. 07-253 which stripped away the franchise reviews that had served to provide opportunities for the DPUC to fully examine the service provided by the cable operators every 5-10 years.

Thus, at present, the DPUC is severely limited in its ability to open a proceeding of this nature. This means that there is in fact no place for the various communities served by the video providers, PEG providers, or consumers themselves, to be heard. P.A. 07-253 attempted to advance competition in this market, but by eliminating the franchise renewal process, it also dispensed with an invaluable opportunity for the DPUC and interested parties to develop a substantive record on a biennial basis and thus to create a benchmark for continued proper compliance by all video providers.

P.A. 07-253 attempted to level the playing field among all video providers and to further open the market to competitive pressures. The provisions of that statute are now largely completed and form the foundation for the market as it exists today. The addition of Section 10 of this proposal will correct the loss of regular examinations by all interested parties into the

operations of the video providers, examinations that have historically led to pressure upon them to better serve the communities in which they provide service.

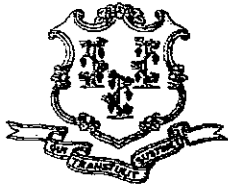
Further, Section 10 will provide a reasonable platform for all interested parties to obtain discovery responses and file comments on the performance of the entire array of market participants on a regular basis before the DPUC. This performance review process will be the only examination of whether the video providers are following the rules of the road, the minimum standards of performance and service quality. An open and equitable examination of that status every other year can only be seen to be valuable, especially in light of the complaints and turmoil lately seen among consumers of video services.

History has shown that regular examinations of the video providers, strenuous discovery of facts, transparent and in the public record, for all interested parties to examine at any time, provides a check on problem behavior and poor service, unequaled by competitive pressures alone. In this way, market participants will receive a public report card, and of course, the DPUC will be able to implement remedial changes to the operations of providers failing to meet the existing statutory and regulatory standards.

All interested parties, including PEG advisory councils and all members of the public access community, the AG, the OCC, and of course, constituent customers of the video providers, will have the opportunity to present evidence and cross examine the providers every other year in these performance reviews. The scope of these reviews is detailed in the statutory language and includes, as a minimum, issues concerning customer service, community access support, management of outages, service to handicapped and low-income customers and cooperation with the DPUC. An essential element of this process will be the full authority in the DPUC to take administrative notice of all complaints filed and can act upon them individually and by class of complaint.

While the OCC is a statutory party to all matters before the DPUC, the statute specifically authorizes the Attorney General and the applicable advisory council to full participation as parties, also providing all parties the right to appeal any determination of the department pursuant to section 16-35 of the general statutes.

Surely no party can object to such a proposal since if each is fulfilling their statutory and regulatory requirements, then they will receive only high marks and the process will inevitably lead to improved relations between the providers and their franchise communities. Accordingly, the OCC fully supports passage of Section 10 of H.B. 6604.



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC UTILITY CONTROL

Anthony J. Palermino
Commissioner

THE ENERGY & TECHNOLOGY COMMITTEE

House Bill 6604: AAC PUBLIC ACCESS TELEVISION CHANNELS

March 5, 2009

TESTIMONY OF THE DEPARTMENT OF PUBLIC UTILITY CONTROL

The Department of Public Utility Control (Department) would like to comment on House Bill No. 6604. House Bill No. 6604 attempts to improve community access in the state. The Department notes that P.A. 07-253 attempted to level the playing field among all video providers and to further open the market to competitive pressures. However, as many are now coming to realize, the provisions of that statute are now largely complete and leave much to be desired. Clearly, this bill is an attempt to correct some of the holes left by removing all aspects of the franchising process and the paucity of the Department's authority to review and address issues stemming from the operations of the traditional and new providers of "video service".

If the Department were to receive the authority to commence proceedings and negotiate agreements between affected parties, as delineated in the proposed bill, the Department would request that this bill also include sufficient power for it to order specific remedies that would resolve any such petitions and proceedings. Without sufficient teeth to order the appropriate relief, the Department would still be left with out authority to settle disputes or to correct violations of the law.

Should this bill become law, the Department has the following suggestions for further clarifications:

Section 1(a). The term 'public access' is used, not 'community access.' These terms are not substitutes for one another. The term 'public access' can refer to the public access channel as opposed to the governmental access channel or educational access channel. To avoid this confusion, the terms describing access were changed many years ago pursuant to PA 95-150 in favor of the term "Community Access"..

Section 1(b). The Department currently has authority to hear these complaints. Regulations are not needed since the Department has procedures to hear complaints.

Section 1(c). In many communities the community access provider is not privy to subscriber information and for those studios that are mainly staffed by volunteers, the task of notifying all residents regarding contact information of the advisory council would be costly and overly burdensome for them to complete. This responsibility should continue to rest with the entity in charge of the underlying service.

Section 2(c). Current advisory council appointment regulations (RCSA 16-333-35) restrict the percentage of advisory council seats that may be filled by board of directors members of nonprofit access providers. Section 2(c) of the bill may be considered somewhat inconsistent with the above-noted regulation inasmuch as the regulation restricts community access membership on an advisory council, while Section 2(c) says any advisory council member can be an employee of an access provider. In the past, the Department has received complaints that there is an inherent conflict of interest with advisory council members who are also involved in access-related matters as producers or otherwise.

Section 4. The Department is concerned that this provision is discriminatory in its application and does not allow for a level playing field with regards to the funding of community access.

Section 7(c). In the Department's opinion, regulations are unnecessary to implement the requirements of this section.

Section 10. Section 10 would make an advisory council a party and give the council the right of appeal. The Department does not object to designating advisory councils as intervenors in a case before the Department. However, granting advisory councils a right to appeal when they already have a voice through the Office of Consumer Counsel and the Attorney General's Office is redundant and has not been favorably accepted by the Connecticut Courts.

In conclusion, the Department agrees that more can be done to ensure that customers are receiving reliable, quality service from its providers and that at present, it is severely limited in its authority to act on complaints in this field.